

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0054

Mandatory Minimum Penalties

For
Violation of Waste Discharge Requirements
Order No. 93-42
NPDES No. CA0023051

In the Matter of
Occidental County Sanitation District
and Sonoma County Water Agency
Wastewater Treatment Facility
WDID No. 1B830010SON

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the Occidental County Sanitation District (OCSD) and the Sonoma County Water Agency (SCWA) a waiver of the right to a hearing in the matter of mandatory minimum penalties issued pursuant to Water Code section 13385, subdivisions (h) and (i) for failure to meet effluent limitations as required by Waste Discharge Requirements (WDRs) Order No. 93-42 and associated monitoring and reporting programs, and having received a request for the opportunity to implement a Compliance Project (CP) in lieu of a portion of the penalty prescribed, finds the following:

1. The OCSD owns the Occidental Wastewater Treatment Facility (WWTF) located east of and serving the Town of Occidental. Treated effluent is disposed of by irrigation during the summer and by discharge to Dutch Bill Creek during the winter. The SCWA, located at 404 Aviation Blvd., Santa Rosa, is under contract to operate and maintain the WWTF. Hereinafter the OCSD and SCWA are collectively referred to as the Discharger.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 93-42 for the Discharger on May 27, 1993. The Order serves as a National Pollutant Discharge Elimination System (NPDES) permit under the Federal Clean Water Act and allows the Discharger to discharge treated effluent at a rate of up to one percent of the flow of the receiving water during the period of October 1 through May 14 of each year, and prohibits discharge to Dutch Bill Creek and its tributaries during the period of May 15 through September 30 of each year.
3. Among the provisions in the Discharger's WDRs are the requirements to implement a discharge monitoring program and to prepare and submit NPDES self-monitoring reports to the Regional Water Board pursuant to the authority of Water Code section 13383.

4. Water Code section 13385, subdivisions (h) and (i) require the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each specified violation of effluent limitations. Water Code section 13385, subdivision (k) allows the Regional Water Board to direct a publicly owned treatment work that serves a small community to put all or a portion of the penalty toward a CP in accordance with Section X of the *State Water Resources Control Board Water Quality Enforcement Policy* (Enforcement Policy).
5. According to monitoring reports submitted by the Discharger, the discharge exceeded effluent limitations eighty-three times from January 1, 2000 to April 16, 2003. On November 3, 2003, the Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R1-2003-0125, assessing a mandatory minimum penalty of \$216,000 for the effluent violations. The Discharger waived its right to a public hearing and proposed to settle this complaint by paying \$26,000 into the State Water Pollution Cleanup and Abatement Account (CAA) and conducting two CPs totaling at least \$190,000. The first CP was to install baffles in the oxidation pond. It was completed at a cost of \$37,226.02. The second CP was to install tertiary filters to upgrade the treatment process and has not been completed because the Discharger's long-term goal has changed from upgrading the WWTF to constructing a regional pipeline that will deliver wastewater to the Russian River County Sanitation District WWTF. The Discharger still owes \$152,773.98 to settle this complaint.
6. On October 12, 2005, the Regional Water Board adopted Cease and Desist Order (CDO) No. R1-2005-0085 that requires the Discharger to come into compliance with WDRs Order No. 93-42 and the Water Quality Control Plan for the North Coast Region (Basin Plan) by addressing storage capacity, treatment and operation of the WWTF.
7. According to monitoring reports submitted by the Discharger, the discharge exceeded effluent limitations thirty-five times from April 17, 2003 to October 31, 2006. On March 05, 2007, the Executive Officer issued ACL Complaint No. R1-2007-0022, assessing a mandatory minimum penalty of \$93,000 for the effluent violations. The Discharger waived its right to a public hearing and proposed to settle this complaint by paying the sum of \$10,000 into the CAA and conducting a CP totaling at least \$83,000.
8. Since the Discharger's long-term goal is to abandon the existing WWTF, the Discharger now proposes to repair and upgrade the wastewater collection system. This proposal would reduce infiltration and inflow, which was a contributing factor that caused violations of effluent limitations. The proposed CP involves a collection system upgrade that was originally designed to satisfy ACL Complaint No. R1-2003-0125 and for interim compliance with CDO No. R1-2005-0085 described in Finding 6 above. The proposed CP will abandon in-place or remove and replace approximately 3,690 linear feet of failing slip-lined 6-inch diameter asbestos concrete piping. The Discharger will use 4-inch, 6-inch, and 8-inch polyvinyl chloride, high density polyethylene, or ductile iron piping for new and replacement piping. The Discharger is reachable on the Small Community Grant assistance Priority List for project planning and construction of up to \$2 million. The State

Water Board approved the Discharger's Facility Plan for the collection system upgrade project on June 11, 2007 and approved the Final Plans and Specifications on August 10, 2007. The Discharger estimates that construction will commence by October 1, 2007 and finish by June 30, 2008. The project, time schedule, and funding approval are further described in Attachment A to this Order.

9. The Discharger has requested that the project described in Finding 8 be used as a CP to satisfy ACL Complaint Nos. R1-2003-0125 and R1-2007-0022. The penalty remaining for both of these complaints totals \$235,773.98, and the project cost of the collection system upgrade project is estimated at \$2,310,000. The Regional Water Board finds that the CP, as proposed, meets the criteria established in Water Code section 13385, subdivision (k) and the State Water Resources Control Board Enforcement Policy.
10. A duly noticed public hearing on this matter was held before the Regional Water Board on September 13, 2007 at the Regional Water Board office in Santa Rosa, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger and the public were given the opportunity to testify and present evidence regarding the proposed settlement.
11. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).
12. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within thirty days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED, pursuant to Water Code section 13385, that:

1. The Discharger shall be assessed mandatory minimum penalties in the amount of \$309,000. The Discharger paid the sums of \$26,000 on November 24, 2003 and \$10,000 on April 4, 2007 into the CAA to help defray staff costs. The Discharger completed a baffle upgrade project that cost \$37,226.02 in the spring of 2004. The remaining sum of \$235,773.98 is eligible to be permanently suspended upon satisfactory completion of the CP as described in Attachment A of this Order.
2. The Discharger shall complete the CP and submit a report describing the work performed as follows:

TASK	DATE
Initiate construction	by October 1, 2007 and submit a report of compliance by October 15, 2007

TASK	DATE
Complete construction	by June 30, 2008 and submit a final report by September 1, 2008 detailing the completion of the CP and an engineering judgment of the expected effectiveness of the CP. The report shall include a post project accounting of all expenditures with proof of payment.

3. If, given written justification from the Discharger, the Executive Officer determines that a delay in the CP implementation schedule is beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the CP will be completed.
4. The remaining penalty amount of \$235,773.98 shall be permanently suspended if the Executive Officer determines that the Discharger completes the CP satisfactorily and provides the Regional Water Board with the scheduled progress report and the final report by September 1, 2008. The amount of the penalty suspended will not exceed the Discharger's cost to return to and/or maintain future compliance.
5. Failure to meet the deadlines above, including satisfactorily completion of the CP, will result in the Discharger being required to pay the suspended \$235,773.98 penalty. Payment of the suspended amount does not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.
6. Notwithstanding the issuance of this Order the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of the suspended penalty provisions above, as well as the authority to assess additional penalties for other violations of the Discharger's waste discharge requirements.

Certification



I, Robert R. Klamt, Interim Executive Officer,
do hereby certify that the foregoing is a full, true,
and correct copy of an Order adopted by the
California Regional Water Quality Control Board, North Coast Region
on September 13, 2007